SUPREME COURT OF THE UNITED STATES.

No. 67.

THOMAS WOOD, JR., CLAIMANT OF TWENTY PIECES OF CLOTH, PLAINTIFF IN ERROR,

vs.

THE UNITED STATES.

IN ERROR TO THE CIRCUIT U. S. FOR MARYLAND.

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S. D. Langtree, Print.

THE UNITED STATES OF AMERICA,
District of Maryland, to wit :

At a circuit court of the United States for the fourth circuit in and for the Maryland district, begun and held at the city of Baltimore, on the first Monday in November, in the year of our Lord one thousand eight hundred and forty.

Present: The honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, Upton S. Heath, judge of Maryland district, Nathaniel Williams, Esq., attorney, Nicholas Snider, Esq., marshal, Thomas Spicer, clerk.

Among other were the following proceedings, to wit:

TWENTY-TWO PIECES OF CLOTH,
THOMAS WOOD, JUNIOR, Claimant,
vs.
THE UNITED STATES.

Be it remembered, that on this second day of November, in the year of our Lord one thousand eight hundred and forty, the said Thomas Wood, junior, by Jonathan Meredith, and St. George W. Teackle, his attorneys, filed in the circuit court here the transcript of a record from the district court of the United States in and for the Maryland district, in the words and of the tenor following, to wit:

THE UNITED STATES OF AMERICA,
District of Maryland, to wit :

At a district court of the United States in and for the Maryland district, begun and held at the city of Baltimore, on the first Tuesday in June, in the year of our Lord one thousand eight hundred and forty.

Present: The honorable Upton S. Heath, judge of Maryland district, Nathaniel Williams, Esq., attorney, Nicholas Snider, Esq., marshal, Thomas Spicer, clerk.

Among other were the following proceedings, to wit:

THE UNITED STATES
vs.
TWENTY-TWO PIECES OF CLOTH,
THOMAS WOOD, JUNIOR, Claimant.

Be it remembered, that heretofore, to wit, on the twenty-seventh day of December, in the year of our Lord one thousand *one thousand*

eight hundred and thirty-nine, the said United States of America, by Nathaniel Williams, attorney of the United States in and for the Maryland district, filed in the district court here an information against the said twenty-two pieces of cloth, in the words and of the tenor following, to wit:

Information.

DISTRICT COURT OF THE UNITED STATES OF AMERICA,
For the District of Maryland.

At a district court of the United States of America for the district of Maryland, held in the city of Baltimore, in the district of Maryland, before the judge of the same court, on the twenty-seventh day of December, in the year eighteen hundred and thirty-nine, comes Nathaniel Williams, attorney of the United States for the district of Maryland, who prosecutes for the United States in this behalf, and being present here in court in his own proper person, in the name and on behalf of the United States, alleges, informs, and declares as follows, to wit:

1st Count.

That William Frick, collector of the customs for the district of Baltimore, in the district of Maryland, heretofore, to wit, on the twenty-third day of August, in the year eighteen hundred and thirty-nine, at the city of Baltimore, in the district aforesaid, and within the jurisdiction of this court, seized on land as forfeited to the use of the United States, twenty-two pieces or packages of goods, wares and merchandize, marked and numbered as follows: 1096, 1097, 1050, 1049, 1107, 1244, 4000, 4001, 5482, 5549, 5550, 5481, 1403, 1401, 1402, 1404, 1269, 1092, 1270, 1312, 1311, and 1091, respectively, wholly cloths, being of the value of twenty-five hundred dollars, for the causes and reasons following, that is to say—

For that the above mentioned and described goods, wares, and merchandize, were of the growth, produce, and manufacture of some foreign country or place to the said attorney as yet unknown, and were heretofore, to wit, on the first day of March, in the year eighteen hundred and thirty-nine, brought in a certain vessel or vessels to the said attorney as yet unknown, from some foreign port or place to the said attorney as yet unknown, into some port or place of some district of the United States to the said attorney as yet unknown, and being so brought as aforesaid, the said goods, wares, and merchandize were, on the day and year last aforesaid, unladen and delivered from the vessel or vessels in which the same had been brought as aforesaid, within the United States, to wit, at some port or place of the district as aforesaid to the said attorney as yet unknown, without a permit from the collector or naval officer of the port or district where the same were so unladen and delivered, for such unlading or delivery against the form of the 50th section of

the act of Congress which was approved on the 2d March, 1799, entitled "An act to regulate the collection of duties on imports and tonnage."

2d Count

2d. And also for that the aforesaid goods, wares, and merchandize were of the growth, produce, and manufacture of some foreign country or place to the said attorney as yet unknown, and were heretofore, to wit, on the first day of March, in the year eighteen hundred and thirty-nine, brought in a certain vessel or vessels to the said attorney as yet unknown, from some foreign port or place to the said attorney as yet unknown, into the port of New York, in the collection district of the city of New York, in the southern district of New York, and the said goods, wares, and merchandize being so brought as aforesaid, were on the day and year last aforesaid, unladen and delivered from the vessel or vessels in which the same had been brought as aforesaid, within the United States, to wit, at the said port of New York, in the collection district of the city of New York, in the southern district of New York, without any permit from the collector or naval officer of the said port or district last mentioned for such unlading or delivery, against the form of the 50th section of the act of Congress aforesaid.

3d Count.

3d. And also for that the aforesaid goods, wares and merchandize being of the growth, produce, and manufacture of some foreign country or place to the attorney aforesaid unknown, were heretofore, to wit, on the first day of March, in the year eighteen hundred and thirty-nine, brought and imported in a certain vessel or vessels, the name or names whereof are to the attorney aforesaid as yet unknown, from a foreign port or place to the attorney aforesaid as yet unknown, into the port of New York, in the collection district of the city of New York, in the southern district of New York, which said goods, wares, and merchandize were subject to the payment of duties to the United States on being so brought and imported as aforesaid, and that an entry of the before mentioned goods, wares and merchandize having been made, to wit, on the day and year last aforesaid, at the office of the collector of the collection district of the city of New York, in the southern district of New York, the said goods, wares and merchendize were afterwards, to wit, on the twenty-third day of August, in the year last aforesaid, at the district of Maryland, found not to have been invoiced, and were not invoiced according to the actual cost thereof at the place of exportation, with design to evade the duties thereupon, or a part thereof, against the form of the 66th section of the act of Congress aforesaid.

4th Count.

4th. And also for that the aforesaid goods, wares, and merchandize, being of the growth, produce and manufacture of some foreign country or place to the attorney aforesaid unknown, were, heretofore, to wit, on the first day of March, in the year eighteen hundred and thirty-nine, brought and imported in a certain vessel or vessels, the name or names whereof are to the attorney aforesaid as yet unknown, from a foreign port or place to the attorney aforesaid as yet unknown, into the port of New York, in the collection district of the city of New York, in the southern district of New York, which said goods, wares and merchandize were subject to the payment of duties to the United States on being so brought and imported as aforesaid, and that entries of the beforementioned goods, wares and merchandise having been made, to wit, on the day and year last aforesaid, at the office of the collector of the collection district of the city of New York, within the southern district of New York, all and each of the packages in the said entries so made as aforesaid, were found, on examination, to differ in their contents from the entries made as aforesaid, against the form of the 67th section of the act of Congress aforesaid.

5th Count.

5th. And also for that the aforesaid goods, wares and merchandize, being of the growth, produce and manufacture of some foreign country or place to the attorney aforesaid as yet unknown, were, heretofore, to wit, on the first day of March in the year eighteen hundred and thirty-nine, brought and imported in a certain vessel or vessels, the name or names whereof are to the attorney aforesaid as yet unknown, from some foreign port or place to the attorney aforesaid as yet unknown, into the United States, which said goods, wares and merchandize were subject to the payment of duties to the United States, and being so brought and imported as aforesaid, were on the day of the seizure aforesaid, found concealed in a certain store in the city of Baltimore, in the district of Maryland aforesaid, the duties on the said goods, wares and merchandize not having been before that time paid, or secured to be paid, against the form of the 68th section of the act of Congress aforesaid.

6th Count.

And also for that the aforesaid goods, wares and merchandize, being of the growth, produce and manufacture of some foreign country or place to the attorney aforesaid as yet unknown, were, heretofore, to wit, on the first day of March, in the year eighteen hundred and thirty-nine, brought and imported in a certain vessel or vessels, the name or names whereof are to the attorney aforesaid as yet unknown, from some foreign port or place to the attorney aforesaid as yet unknown, into the port of New York, in the collec-

tion district of the city of New York, in the southern district of New York, which said goods, wares and merchandize were subject to the payment of ad valorem duties to the United States, on being so brought and imported as aforesaid; and that an entry of the said goods, wares and merchandize having been made, to wit, on day and year last aforesaid, at the office of the collector of the collection district of the city of New York, in the southern district of New York; afterwards, to wit, on the twenty-third day of August, in the year eighteen hundred and thirty-nine, at the district of Maryland, all and each of the several invoices, and all and each of the several packages in each and every of the several invoices included in the said entry, were found to be made up with intent by a false valuation or extension to evade or defraud the revenue of the United States, against the form of the 4th section of the act of Congress, which was approved on the 28th May, 1830, entitled "An act for the more effectual collection of the impost duties."

7th Count.

7th. And also for that the aforesaid goods, wares and merchandize, being of the growth, produce and manufactures of some foreign country or place to the attorney aforesaid as yet unknown, were, heretofore, to wit, on the first day of March, in the year eighteen hundred and thirty-nine, brought and imported in a certain vessel or vessels, the name or names whereof are to the attorney aforesaid as yet unknown, from some foreign port or place to the attorney aforesaid as yet unknown, into the port of New York, in the collection district of the city of New York, within the southern district of New York, which said goods, wares and merchandize were subject to the payment of ad valorem duties to the United States on being so brought and imported aforesaid; and that an entry of the said goods, wares and merchandize having been made, to wit, on the day and year last aforesaid, at the office of the collector of the collection district of the city of New York, in the southern district of New York; afterwards to wit, on the twenty-third day of August, in the year eighteen hundred and thirty-nine, at the district of Maryland, each of the invoices included in such entry were found to be made up with intent, by a false valuation or extension, to evade or defraud the revenue of the United States, against the form of the 4th section of the act of Congress last aforesaid.

8th Count.

And also for that the aforesaid goods, wares and merchandize, being of the growth, produce and manufacture of some foreign country or place to the attorney aforesaid as yet unknown, were, heretofore, to wit, on the first day of March in the year eighteen hundred and thirty-nine, brought and imported in a certain vessel or vessels, the name or names whereof are to the attorney aforesaid as yet unknown, from some foreign port or place to the attorney aforesaid as yet unknown, into the port of New York, in the collection

district of the city of New York, within the southern district of New Yerk, which said goods, wares and merchandize were subject to the payment of ad valorem duties on being so brought and imported as aforesaid, and that an entry of the said goods, wares and merchandize having been made, to wit, on the day and year last aforesaid, at the office of the collector of the collection district of the city of New York, in the southern district of New York; afterwards, to wit, on the twenty-third day of August, in the year eighteen hundred and thirty-nine, at the district of Maryland, all and each of the said several packages, contained in each and every of the invoices included in the said entry were found to be made up with intent by a false valuation or extension, to evade or defraud the revenue of the United States, against the form of the 4th section of the act of Congress last aforesaid.

9th Count.

9th. And also for that the aforesaid goods, wares, and merchandize, being of the growth, produce, and manufacture of some foreign country or place to the attorney aforesaid as yet unknown, and being composed wholly of wool, were heretofore, to wit, on the first day of March, in the year eighteen hundred and thirty-nine, brought and imported in a certain vessel or vessels, the name or names whereof are to the attorney aforesaid as yet unknown, from some foreign port or place to the attorney aforesaid as yet unknown, into the port of New York, in the collection district of the city of New York, within the southern district of New York, which said goods, wares, and merchandize were subject to the payment of duties to the United States on being so brought and imported as aforesaid; and that an entry of the said goods, wares, and merchandize having been made, to wit, on the day and year last aforesaid at the office of the collector of the collection district of the city of New York, in the southern district of New York, on the opening and examination of the packages of said goods, wares, and merchandize, afterwards, to wit, on the twenty-third day of August, in the year last aforesaid, at the district of Maryland aforesaid, each and every of the said packages included in the said entry were found to be made up with intent to evade or defraud the revenue of the United States, against the form of the 14th section of the act of Congress which was approved on the 14th July, 1832, entitled "An act to alter and amend the several acts imposing duties on imports."

By reason of all which the premises and the acts of Congress in this behalf made and provided, the said goods, wares, and merchandize have become and are forfeited to the uses in said acts specified.

Wherefore the attorney aforesaid prays the advice and consideration of the court in the premises, and for a monition or other

proper process to issue herein, to the end that the said goods, wares, and merchandise may be decreed to be and remain forfeited, and that the proceeds after condemnation may be distributed according to the provisions of the acts of Congress in such cases made and provided.

NATH'L WILLIAMS,
Attorney of the United States for the District of Maryland.

Claim.

And now here, on this day, to wit, the thirteenth day of February, in the year of our Lord one thousand eight hundred and forty, a certain Thomas Wood, Junior, of the city of New York, filed in the district court here, his claims to the said twenty-two pieces of cloth in the words following, to wit:

IN THE DISTRICT COURT OF THE UNITED STATES,
In and for the District of Maryland, March Term, 1840.

THE UNITED STATES
vs.
TWENTY-TWO PIECES OF CLOTHS.

And Thomas Wood, Junior, of the city and State of New York, comes and claims as his own property certain goods, wares, and merchandize, seized by William Frick, collector of the customs for the district of Baltimore, in the district of Maryland aforesaid, and libelled and propounded against as forfeited, in and by the libel of information aforesaid, and numbered as follows, to wit: 1096, 1097, 1050, 1049, 1107, 1244, 4000, 4001, 5481, 5482, 5549, 5550, 1401, 1402, 1403, 1404, 1269, 1270, 1311, 1312, 1091, 1092, and the said Thomas Wood, Junior, alleges that at the time of the seizure aforesaid he was and yet is the true, sole, and lawful owner and proprietor *bona fide* of the said goods, wares, and merchandize, and of this he is ready to make due proofs by his own oath and otherwise as the court shall direct.

THOMAS WOOD, Jr.

SOUTHERN DISTRICT OF NEW YORK, *ss.*

On this 10th day of February, Anno Domini, 1840, before me personally appeared Thomas Wood, Jun., who, being by me duly sworn, did depose and say that he had read the foregoing claim, and subscribed the same, and that he knew the contents thereof, and that the same was true to the best of his knowledge, information, and belief.

GEO. W. MORTON,
U. S. Com'r.

SOUTHERN DISTRICT OF NEW YORK, *ss.*

I, Frederick J. Betts, clerk of the southern district of New York, do hereby certify that George W. Morton, whose name in his own proper handwriting, is subscribed to the jurata to the annexed claim and answer of Thomas Wood, Jun., was at the time of signing the same a commissioner duly appointed by the circuit court of the United States for the southern district of New York, under and by virtue of the act of Congress in such case made and provided.

In testimony whereof, I have hereunto subscribed my name, and affixed the seal of the said circuit court, this tenth [L. S.] day of February, in the year of our Lord one thousand eight hundred and forty, and of the Independence of the United States the sixty-fourth.

FRED. J. BETTS, *Clerk.*

And now here, on this day, to wit, the twenty-first day of February, in the year of our Lord one thousand eight hundred and forty, the said Thomas Wood, Jr., filed his answer to the information aforesaid of the said United States of America, against the said twenty-two pieces of cloth, in the words following, to wit:

THE UNITED STATES
vs.
22 PIECES OF CLOTH.

Answer.

And now comes here Thomas Wood, Jun., by J. V. L. McMahon and St. George W. Teackle, his proctors, and for answer denies that the said twenty-two pieces of cloth are justly and legally liable to forfeiture for any of the causes alleged in said information, or in any count thereof; wherefore he prays that the said information may be dismissed with his costs.

J. V. L. McMAHON,
St. G. W. TEACKLE,
Proctors for Claimant.

And now here, on this day, to wit, the twenty-fourth day of February, in the year of our Lord one thousand eight hundred and forty, the said United States of America, by their attorney aforesaid, filed in the district court here, their replication to the said answer of the said Thomas Wood, Jun., in the words following, to wit:

Replication.

IN THE DISTRICT COURT OF THE UNITED STATES,
For the District of Maryland.

THE UNITED STATES
vs.
TWENTY-TWO PIECES OF CLOTH. } Replication.

And the said attorney of the said United States, by way of replication to the said answer of the said Thomas Wood, Junior, doth aver, that the matters contained in his information are true in fact, and sufficient in law to maintain a decree of forfeiture, according to the prayer thereof; of all which matters he is ready to make due proof, as the court shall direct.

NATHL. WILLIAMS,
District Attorney, U. S. Dt. Md.

And now here, to wit, the first Tuesday in March, in the year of our Lord one thousand eight hundred and forty, come into the district court here, the parties aforesaid, by their attorneys aforesaid; thereupon the parties aforesaid, by their attorneys aforesaid, pray leave of the court here to amend their pleadings generally, and to them it is granted.

And the said Thomas Wood, Junior, by his attorneys aforesaid, suggests to the court here, that he cannot with safety proceed at this term to the trial of this cause, for want of material and competent testimony beyond seas, and prays that a day may be given for the trial thereof, and also that a commission may issue to examine evidences in this cause, and that the depositions to be taken under and in virtue of the said commission, and therewith returned, may be read in evidence at the trial; and the same is granted him.

Thereupon further process of and upon the premises aforesaid, between the parties aforesaid, by consent of the said parties and their attorneys aforesaid, and by order of the court here thereon, is continued until the first Tuesday in June next.

At which said first Tuesday in June, in the year of our Lord one thousand eight hundred and forty, come into the district court here the said United States of America, by their attorney aforesaid, and the said Thomas Wood, Junior, claimant of the said twenty pieces of cloth, by Jonathan Meredith and St. George W. Teackle, his attorneys.

Pleas.

And thereupon the said Thomas Wood, Junior, of his attorneys aforesaid, files in the district court here, the following pleas, to wit:

SOUTHERN DISTRICT OF NEW YORK, *ss.*

I, Frederick J. Betts, clerk of the southern district of New York, do hereby certify that George W. Morton, whose name in his own proper handwriting, is subscribed to the jurata to the annexed claim and answer of Thomas Wood, Jun., was at the time of signing the same a commissioner duly appointed by the circuit court of the United States for the southern district of New York, under and by virtue of the act of Congress in such case made and provided.

In testimony whereof, I have hereunto subscribed my name, and affixed the seal of the said circuit court, this tenth [L. S.] day of February, in the year of our Lord one thousand eight hundred and forty, and of the Independence of the United States the sixty-fourth.

FRED. J. BETTS, *Clerk.*

And now here, on this day, to wit, the twenty-first day of February, in the year of our Lord one thousand eight hundred and forty, the said Thomas Wood, Jr., filed his answer to the information aforesaid of the said United States of America, against the said twenty-two pieces of cloth, in the words following, to wit:

THE UNITED STATES
vs.
22 PIECES OF CLOTH.

Answer.

And now comes here Thomas Wood, Jun., by J. V. L. McMahon and St. George W. Teackle, his proctors, and for answer denies that the said twenty-two pieces of cloth are justly and legally liable to forfeiture for any of the causes alleged in said information, or in any count thereof; wherefore he prays that the said information may be dismissed with his costs.

J. V. L. McMAHON,
St. G. W. TEACKLE,
Proctors for Claimant.

And now here, on this day, to wit, the twenty-fourth day of February, in the year of our Lord one thousand eight hundred and forty, the said United States of America, by their attorney aforesaid, filed in the district court here, their replication to the said answer of the said Thomas Wood, Jun., in the words following, to wit:

Replication.

IN THE DISTRICT COURT OF THE UNITED STATES,
For the District of Maryland.

THE UNITED STATES
vs.
TWENTY-TWO PIECES OF CLOTH. } Replication.

And the said attorney of the said United States, by way of replication to the said answer of the said Thomas Wood, Junior, doth aver, that the matters contained in his information are true in fact, and sufficient in law to maintain a decree of forfeiture, according to the prayer thereof; of all which matters he is ready to make due proof, as the court shall direct.

NATHL. WILLIAMS,
District Attorney, U. S. Dt. Md.

And now here, to wit, the first Tuesday in March, in the year of our Lord one thousand eight hundred and forty, come into the district court here, the parties aforesaid, by their attorneys aforesaid; thereupon the parties aforesaid, by their attorneys aforesaid, pray leave of the court here to amend their pleadings generally, and to them it is granted.

And the said Thomas Wood, Junior, by his attorneys aforesaid, suggests to the court here, that he cannot with safety proceed at this term to the trial of this cause, for want of material and competent testimony beyond seas, and prays that a day may be given for the trial thereof, and also that a commission may issue to examine evidences in this cause, and that the depositions to be taken under and in virtue of the said commission, and therewith returned, may be read in evidence at the trial; and the same is granted him.

Thereupon further process of and upon the premises aforesaid, between the parties aforesaid, by consent of the said parties and their attorneys aforesaid, and by order of the court here thereon, is continued until the first Tuesday in June next.

At which said first Tuesday in June, in the year of our Lord one thousand eight hundred and forty, come into the district court here the said United States of America, by their attorney aforesaid, and the said Thomas Wood, Junior, claimant of the said twenty pieces of cloth, by Jonathan Meredith and St. George W. Teackle, his attorneys.

Pleas.

And thereupon the said Thomas Wood, Junior, of his attorneys aforesaid, files in the district court here, the following pleas, to wit:

IN THE DISTRICT COURT OF THE UNITED STATES,
In and for the Maryland District.

THE UNITED STATES OF AMERICA
vs.
Twenty-two Pieces of Cloths,
THOMAS WOOD, Jun., Claimant.
} Information.

And now comes into the said district court here, by his attorneys, Jonathan Meredith and St. George W. Teackle, the said Thomas Wood, Junior, admitted by the court here as claimant of the said twenty-two pieces of cloths in the said information mentioned; and for plea to the said information, and to the several causes for the seizure and forfeiture of the said twenty-two pieces of cloths therein alleged, and in order to entitle him, the said claimant, to the restitution of his said goods, wares, and merchandize, he, the said claimant, alleges as follows:

First Plea.

1st. And as to the seizure of the said goods, wares, and merchandize, alleged in the said information to have been made by William Frick, collector of the customs for the district of Baltimore, in the district of Maryland, and as to the allegations in said information that the said goods, wares, and merchandize were seized by the said William Frick, collector as aforesaid, for the nine several causes or reasons of forfeiture therein alleged, he, the said claimant, says that the said goods, wares, and merchandize were not in fact seized by the said William Frick, collector as aforesaid, in manner and form as in said information alleged, for the causes alleged in the first, second, third, fourth, sixth, seventh, eighth, and ninth counts or allegations of causes of forfeiture in said information alleged; and of this he, the said claimant, puts himself upon the country, &c.

Second Plea.

2d. And as to the seizure of the said goods, wares, and merchandize alleged in the said information to have been made by William Frick, collector of the customs for the district of Baltimore, in the district of Maryland aforesaid, he, the said claimant, further says, that on the twenty-third day of August, in the year of our Lord one thousand eight hundred and thirty-nine, at the city of Baltimore, at the district of Maryland aforesaid, the said William Frick, the seizor of said goods, wares, and merchandize, named in said information, issued and delivered the following warrant to George W. Burke and Theodore Anderson, to wit:

DISTRICT OF BALTIMORE.

To George W. Burke and Theodore Anderson.

Whereas I, William Frick, collector of the customs of the district of Baltimore, have received information that certain goods, wares, and merchandize liable to duty, have been introduced into this collection district contrary to law, and without a permit first had and obtained for that purpose, and with intent to defraud the revenue of the United States: and whereas I have cause to suspect the said goods, wares, and merchandize are concealed in the stores of H. Beadel & Co., and Robert A. Taylor & Co., situate in German street, and in the store or stores of Hoffman & Co., North Charles street.

Now, by virtue of the sixty-eighth section of the collection law, these therefore are to authorize the said George W. Burke and Theodore Anderson, after you shall have obtained a warrant for that purpose from one of the justices of the peace for the State of Maryland, in and for the city of Baltimore, to enter the said store or stores in the day time only, and there make diligent search, and if any of the said goods, wares, and merchandize be found, you seize and secure the same for trial.

Witness my hand and seal, this twenty-third day of August, Anno Domini one thousand eight hundred and thirty-nine.

Signed WM. FRICK. [L. S.]
Collector.

And that, thereupon, on the day and year aforesaid, at Baltimore, in the district of Maryland aforesaid, a certain Robert M. Welsh, a justice of the peace of the State of Maryland, in and for the city of Baltimore aforesaid, issued and delivered to the said George W. Burke and Theodore Anderson, the following warrant, to wit:

CITY OF BALTIMORE, *ss.*

The United States of America to George W. Burke and Theodore Anderson, greeting:

Whereas information is given before me, Robert M. Welsh, Esquire, one of the justices of the peace of the State of Maryland, in and for the city of Baltimore, by George Gideon, of Philadelphia, now in the city of Baltimore, who did depose and say, that he had reason to suspect, and doth verily suspect, that certain goods, wares, and merchandize subject to duty, have been brought contrary to law within the district of Baltimore, to defraud the revenue of the United States.

And whereas the said George Gideon did further depose and say, that the said goods, wares, and merchandize are, as he doth verily believe, stored and secreted in the store or stores of H. Beadel & Co., and Robert A. Taylor & Co., situate in German street, and in

the store or stores of Hoffman's & Co., in North Charles street, in the city of Baltimore.

And whereas William Frick, collector of the port of Baltimore, in pursuance of the authority given to him by the sixty-eighth section of the collection laws, has duly authorized and empowered George W. Burke and Theodore Anderson to act in the premises agreeably to the terms of the said authorization hereunto annexed: Now, by virtue of the power and authority given to you by the said authorization, these are therefore to require you, the said George W. Burke and Theodore Anderson, to enter the aforesaid described stores in the day time only, and there to search for the goods, wares, and merchandize, and if any shall be found, to seize and secure the same for trial.

In witness whereof, I, the said Robert M. Welsh, Esquire, have hereunto set my hand and seal, on this twenty-third day of August, Anno Domini one thousand eight hundred and thirty nine.

Signed ROBERT M. WELSH. [L. S.]

And that under and by virtue of the said warrants from the said William Frick, collector as aforesaid, and Robert M. Welsh, justice of the peace as aforesaid, the said George W. Burke and Theodore Anderson, afterwards, to wit, on the day and year aforesaid, made the seizure of the said goods, wares, and merchandize mentioned in the said information, and not under any authority, or for any other cause than that appearing by said warrants; and that there has been no other seizure of the said goods, wares, and merchandize, mentioned in the said information, except the aforesaid seizure made as aforesaid by the said George W. Burke and Theodore Anderson, and this he, the said claimant, is ready to verify.

Wherefore, he prays judgment, if the said goods, wares, and merchandize ought to be decreed to be forfeited to the United States.

Third Plea.

3d. And as to the seizure of the said goods, wares, and merchandize alleged in the said information, he, the said claimant further says, that the said goods, wares, and merchandize in said information alleged to have been seized, were heretofore, to wit, on the first day of March, in the year of our Lord one thousand eight hundred and thirty nine, imported by him, the said claimant, into the port of New York, in the collection district of the city of New York, in the southern district of New York, and that having been so imported, the said goods, wares, and merchandize were afterwards, to wit, on the day and year aforesaid, at the district aforesaid, duly entered at the office of the collector of the said collection district of New York, in the said southern district of New York, and were unladen and delivered from the vessel in which they were so imported, and under and by virtue of a permit granted by the said collector, and that after the said goods, wares, and merchandize had been so

entered, the said collector in order to the ascertainment of the duties on the same, afterwards, to wit, on the day and year aforesaid, at the district last aforesaid, did cause the said goods, wares, and merchandize to be appraised according to the actual value thereof at the time at which they were purchased, and the place from which they were imported by him, the said claimant, and did then and there cause several packages, to wit, one package out of every invoice, and one package out of every twenty packages of said goods, wares, and merchandize to be opened and examined; and that upon the said opening and examination of said packages, the said packages so opened and examined, were then, to wit, on the day and year aforesaid, at the district aforesaid, found and reported to the said collector to be correctly and fairly invoiced and put up; and that after said examination and appraisement, the duties on said goods, wares, and merchandize were duly ascertained and estimated by said collector, and being so ascertained and estimated, he the said claimant paid the said duties so ascertained to the said collector, to wit, on the day and year aforesaid, at the district aforesaid; and that after the said payment of the said duties by him, the said claimant, the said goods, wares, and merchandize were by the authority of the said collector duly delivered from the custody of the officers of the customs of the said collection district of the city of New York, to him the said claimant, to wit, on the day and year aforesaid, at the district aforesaid; and that after the said goods, wares, and merchandize had been so delivered to him, the said claimant, he the said claimant afterwards, to wit, on the day and year aforesaid, at the district aforesaid, shipped the same to his agents in the city of Baltimore; and that afterwards, and whilst the said goods, wares, and merchandize were remaining in the said city of Baltimore, in the possession of the said agents of him, the said claimant, to wit, on the day and year aforesaid, at the district of Baltimore, in the district of Maryland aforesaid, they the said goods, wares, and merchandize were seized by the said William Frick, collector of the customs for the district of Baltimore, in the district of Maryland aforesaid, and that is the same seizure which is alleged in the said information, and this the said claimant is ready to verify.

Wherefore, he prays judgment, if the said goods, wares, and merchandize ought to be decreed by this court to be forfeited.

Fourth Plea.

4th. And as to the first count and cause of forfeiture in the said information alleged, he the said claimant further says, that by reason of any thing in the said first count and allegation of forfeiture contained, the said twenty-two pieces of cloths ought not to be decreed to be forfeited, because he says that the said goods, wares, and merchandise were not unladen and delivered from any vessel or ship without a permit for such unlading and delivery from the col-

lector or naval officer of the district wherein the same were unladen and delivered, in manner and form as in the said count and allegation is alleged ; and of this, he, the said claimant puts himself upon the country, &c.

Fifth Plea.

5th. And as to the said second count and cause of forfeiture in said information alleged, he the said claimant further says, that by reason of any thing in said second count and allegation of forfeiture contained, the said goods, wares, and merchandise ought not to be decreed to be forfeited, because he says, that the said goods, wares, and merchandise were not unladen and delivered from any ship or vessel at the said port of New York, in the said southern district of New York, without any permit from the collector or naval officer of said port or district, in manner and form as in the said count and allegations is alleged, and of this he the said claimant puts himself upon the country, &c.

Sixth Plea.

6th. And as to the said third count and *and* cause of forfeiture in said information alleged he the said claimant further says that by reason of any thing in the said third count and allegation of forfeiture contained, the said goods, wares, and merchandise ought not to be decreed to be forfeited, because he says, that the said goods, wares, and merchandise were not found to have been invoiced, and were not invoiced below the actual cost thereof at the place of exportation, with design to evade the duties or any part thereof, against the form of the sixty-sixth section of the said act of Congress therein mentioned, in manner and form as in the said count and allegation is alleged, and of this the said claimant puts himself upon the country, &c.

Seventh Plea.

7th. And as to the said fourth count and cause of forfeiture in said information alleged, he the said claimant says, that by reason of any thing in the said fourth count and allegation of forfeiture contained, the said goods, wares, and mercandise ought not to be decreed to be forfeited, because he says, that the said goods, wares, and merchandise having been entered at the place and in the manner stated in said count, the packages included in the said entries of the said goods, wares, and merchandise, were not found, nor were any of them found on examination to differ in their contents from the said entries of the same, against the form of the sixty-seventh section of the said act of Congress therein mentioned, in manner and form as in the said count and allegation is alleged, and of this he the said claimant puts himself upon the country, &c.

Eighth Plea.

8th. And as to the said fifth count and cause of forfeiture in said information alleged, he the said claimant further says, that by reason of any thing in said fifth count and allegation of forfeiture contained, the said goods, wares, and merchandise ought not to be decreed to be forfeited, because he says, that the said goods, wares, and merchandise were not at any time before, or on the day of the aforesaid seizure of the same in said information alleged, found concealed in any store in the city of Baltimore, in the district of Maryland, the duties on the said goods, wares and merchandise not having been before that time paid or secured to be paid in manner and form, as in the said fifth count and allegation of forfeiture alleged, and of this, he the said claimant puts himself upon the country, &c.

Ninth Plea.

9th. And as to the said sixth count and cause of forfeiture in said information alleged, he the said complainant says, that by reason of any thing in said sixth count and allegation of forfeiture contained, the said goods, wares, and merchandise ought not to be decreed to be forfeited, because he says, that the said goods, wares, and merchandise having been entered at the place and in the manner stated in said count, all and each of the several invoices, and all and each of the several packages in each and every of the several invoices included in said entry, were not found to be made up with intent by a false valuation or extention to evade or defraud the revenue of the United States, against the form of the said fourth section of the said act of Congress, of the twenty-eighth day of May, one thousand eight hundred and thirty, mentioned in said count, in manner and form as in said count is alleged, and of this he the said claimant puts himself upon the country, &c.

Tenth Plea.

And as to the seventh count and cause of forfeiture in said information alleged, he, the said claimant, says, that by reason of any thing in said seventh count and allegation of forfeiture contained, the said goods, wares and merchandise ought not to be decreed to be forfeited, because, he says, that the said goods, wares and merchandise having been entered at the place, and in the manner stated in said count, none of the invoices included in said entry were found to be made up with intent by false valuation or extension, to evade or defraud the revenue of the United States, against the form of the said fourth section of said act of Congress in said count mentioned, in manner and form as in said count and allegation alleged; and of this he, the said claimant, puts himself upon the country, &c.

Eleventh Plea.

And as to the said eighth count and cause of forfeiture in said information alleged, he, the said claimant, says, that by reason of

any thing in the said eighth count and allegation of forfeiture contained, the said goods, wares and merchandise ought not to be decreed to be forfeited, because he says, that the said goods, wares, and merchandise having been entered at the place and in the manner stated in said count, none of the packages contained in any of the invoices included in said entry were found to be made up with intent by a false valuation or extension to evade or defraud the revenue of the United States, against the form of the fourth section of the said act of Congress therein mentioned, in manner and form as in said count and allegation alleged; and of this he puts himself upon the country, &c.

Twelfth Plea.

And as to the said ninth count and cause of forfeiture in said information alleged, he, the said claimant, says, that by reason of any thing in said ninth count and allegation of forfeiture contained, the said goods, wares and merchandise ought not to be decreed to be forfeited, because he says, that the said goods, wares and merchandise having been entered at the place and in the manner stated in said ninth count, that upon the opening and examination of the packages of said goods, wares and merchandise included in said entry, none of said packages included in said entry, were found to be made up with intent to evade or defraud the revenue of the United States, against the form of the said fourteenth section of said act of Congress passed on the fourteenth day of July, one thousand eight hundred and thirty-two, in manner and form as in said count and allegation is alleged; and of this the said claimant puts him upon the country, &c. Wherefore, he the said claimant, prays that the said goods, wares and merchandise may be restored to him, and that he may be dismissed hence with reasonable damages and costs occasioned by the premises.

JONATHAN MEREDITH,
ST. G. W. TEACKLE,
Attorneys for the Claimant.

Demurrer to the 1*st Plea.*

And the said United States of America, as to the said plea of the said claimant by him first above pleaded, say, that the same, and the matters therein contained, in manner and form as the same are above pleaded and set forth, are not sufficient in law to bar or preclude them, the said plaintiffs, from having or maintaining their said information against the said goods, wares and merchandise, and that the said plaintiffs are not bound by law to answer the same; and this the said plaintiffs are ready to verify. Wherefore, by reason of the insufficiency of the said plea in this behalf, the said plaintiffs pray judgment and condemnation of the said goods, wares and merchandise for the reasons and causes set forth in their said information, &c.

Joinder in Demurrer to the First Plea.

And the said Thomas Wood, junior, says that the plea aforesaid, in manner and form aforesaid by him, the said Thomas Wood, junior, above pleaded, and the matters in the same contained, are good and sufficient in law to bar or preclude the said information of the said United States of America, which said plea so pleaded, and the matters therein contained, he, the said Thomas Wood, junior, is ready to verify and prove as the said court shall award. And because the said United States of America have not answered the said plea nor hitherto in any manner denied the same, he, the said Thomas Wood, junior, as before prays judgment of the said information, and that the same may be quashed, &c.

Judgment upon the Demurrer to the First Plea for the Plaintiffs.

Whereupon all and singular the premises being seen and inspected by the court, and by them more fully understood, and mature deliberation being thereupon had, it seems to the court here that the said plea of the said Thomas Wood, junior, in manner and form aforesaid pleaded, and the matters therein contained, are not sufficient in law to bar or preclude the said United States of America from having or maintaining their said information against the said twenty-two pieces of cloths. Therefore it is considered by the court here that the said information be adjudged good, and that the said Thomas Wood, junior, further answer to the said information of the said United States of America, &c.

Demurrer to the Second Plea.

And the said United States of America as to the said plea of the said claimant by him second above pleaded, say that the same and the matters therein contained in manner and form as the same are above pleaded and set forth, are not sufficient in law to bar or preclude the plaintiffs from having or maintaining their said information against the said twenty-two pieces of cloth, and that the said plaintiffs are not bound by law to answer the same; and this the plaintiffs are ready to verify. Wherefore, by reason of the insufficiency of the said plea in this behalf, the plaintiffs pray judgment and condemnation of the said twenty-two pieces of cloth for the reasons and causes set forth in their said information, &c.

Joinder in Demurrer to the Second Plea.

And the said Thomas Wood, junior, says, that the plea aforesaid, in manner and form aforesaid, by him the said Thomas Wood, junior, above pleaded, and the matters in the same contained, are good and sufficient in law to bar or preclude the said information of the said

United States of America, which said plea so pleaded and the matters therein contained, he the said Thomas Wood, junior, is ready to verify and prove as the said court shall award; and because the said United States of America have not answered the said plea, nor hitherto in any manner denied the same, he the said Thomas Wood, junior as before, prays judgment of the said information and that the same may be quashed, &c.

Judgment upon the Demurrer to the Second Plea for the Plaintiffs.

Whereupon all and singular the premises being seen and inspected by the court here, and by them more fully understood, and mature deliberation being thereupon had, it seems to the court here, that the said plea of the said Thomas Wood, junior, in manner and form aforesaid pleaded, and the matters therein contained, are not sufficient in law to bar or preclude the said United States of America from having or maintaining their said information against the said twenty-two pieces of cloth. Therefore it is considered by the court here that the said information be adjudged good and that the said Thomas Wood, junior, farther answer to the said information of the said United States of America, &c.

Demurrer to the Third Plea.

And the said United States of America, as to the said plea of the said claimant by him third above pleaded, say, that the same and the matters therein contained, in manner and form as the same are above pleaded and set forth, are not sufficient in law to bar or preclude the plaintiffs from having or maintaining their said information against the said twenty-two pieces of cloths, and that the plaintiffs are not bound by law to answer the same; and this the plaintiffs are ready to verify; wherefore by reason of the insufficiency of the said plea in this behalf, the plaintiffs pray judgment and condemnation of the said twenty-two pieces of cloth for the reasons and causes set forth in their said information, &c.

Joinder in Demurrer to the Third Plea.

And the said Thomas Wood, junior, says that the plea aforesaid in manner and form aforesaid, by him the said Thomas Wood, junior, above pleaded, and the matters in the same contained, are good and sufficient in law to bar or preclude the said information of the said United States of America, which said plea so pleaded, and the matters therein contained, he the said Thomas Wood, junior, is ready to verify and prove as the said court shall award; and because the said United States of America have not answered the said plea, nor hitherto in any manner denied the same, he the said Thomas Wood, junior, as before prays judgment of the said information, and that the same may be quashed, &c.

Judgments on the Demurrer to the Third Plea for the Plaintiffs.

Whereupon all and singular the premises being seen and inspected by the court here, and by them more fully understood, and mature deliberation being thereupon had, it seems to the court here that the said plea of the said Thomas Wood, junior, in manner and form aforesaid pleaded, and the matters therein contained, are not sufficient in law to bar or preclude the said United States of America from having or maintaining their said information against the said twenty-two pieces of cloth.

Therefore it is considered by the court here, that the said information be adjudged good, and that the said Thomas Wood, junior, further answer to the said information of the said United States of America, &c.

Issue to the Fourth Plea.

And the said United States of America as to the said plea of the said claimant by him fourth above pleaded, do the like, &c.

Issue to the Fifth Plea.

And the said United States of America, as to the said plea of the said claimant by him fifth above pleaded, do the like, &c.

Issue to the Sixth Plea.

And the said United States of America as to the said plea of the said claimant by him sixth above pleaded, do the like, &c.

Issue to the Seventh Plea.

And the said United States of America as to the said plea of the said claimant by him seventh above pleaded, do the like, &c.

Issue to the Eighth Plea.

And the said United States of America as to the said plea of the said claimant by him eighth above pleaded, do the like, &c.

Issue to the Ninth Plea.

And the said United States of America as to the said plea of the said claimant by him ninth above pleaded, do the like, &c.

Issue to the Tenth Plea.

And the said United States of America as to the said plea of the said claimant by him tenth above pleaded, do the like, &c.

Issue to the Eleventh Plea.

And the said United States of America as to the said plea of the said claimant by him eleventh above pleaded, do the like, &c.

Issue to the Twelfth Plea.

And the said United States of America as to the said plea of the said claimant by him twelfth above pleaded, do the like, &c.

Therefore let a jury thereon appear before the court here immediately, by whom and so forth, and who neither and so forth, to recognize and so forth, because as well and so forth.

Discontinuance of the first, second, fourth and fifth counts in the Information.

And thereupon the said United States of America by their attorney aforesaid, as to the said pleas of the said claimant to the first, second, fourth, and fifth counts, in the said information contained, say, that they cannot deny the pleas aforesaid made by the said claimant to the said first, second, fourth and fifth counts in the said information contained as aforesaid, and pray leave of the court here to discontinue the same, and to them it is granted.

Therefore it is considered by the court here that the said United States of America take nothing by their said first, second, fourth and fifth counts in their said information contained against the said goods, wares and merchandise, but shall be in mercy for their false allegations and causes of forfeiture in the said first, second, fourth and fifth counts contained.

Whereupon for trying the issues aforesaid, it is ordered by the court here that twenty persons from the pannel of petit jurors returned to the court here by the marshal for the Maryland district aforesaid be drawn by ballot; and thereupon the twenty persons being so drawn by ballot, and written upon two lists, one of which said lists is delivered to the counsel for the respective parties, and the counsel for each of the said parties having stricken out four persons from the said lists, thereupon the remaining twelve persons being called, come to wit:

Jury.

John King, James Blair, John Franciscus, Thomas Symington, William Denny, Jacob D. Hare, James Buchanan, David H. Mc Donald, William J. Wight, William Semmes, John A. Robb, Lemuel W. Gosnell.

Verdict.

Who being empannelled and sworn to say the truth in the premises, upon their oath do say, that they find their verdict for the United States of America.

Judgment.

Therefore it is considered by the court here, that the said twenty-two pieces of cloth in the said information mentioned be, and the same are hereby forfeited to the use of the said United States of America, for the causes of forfeiture, in the said information set forth.

Claimant's First Exception.

Memorandum.

Before the jurors aforesaid, withdrew from the bar of court here, the said claimant by his attorneys aforesaid, tendered to the court here, the following bill of exception, which were by the court here, signed and sealed, and which are in form following, to wit:

DISTRICT COURT OF THE UNITED STATES,
June Term, 1840.

THE UNITED STATES,
vs.
22 PIECES OF CLOTH, THO. WOOD JUNR. Claimant.

At the trial of this cause, the United States to maintain the issues on their part, read in evidence to the jury, the four following several entries and invoices, which it was admitted were original entries and invoices of the goods therein mentioned.

(See agreement hereinafter inserted.)

And it was further admitted and agreed, that the said four invoices, contained the twenty-two pieces of cloths against which the information in this cause was filed, and that the numbers now on said pieces, are the same that they were when imported, and have not been changed or altered; that the said four invoices were severally past through the custom house of the port of New York, according to the forms prescribed by the acts of Congress in such cases made and provided; and that with the exception of No. 1244 imported by the Columbus, one of the said twenty-two pieces, the remaining twenty-one pieces were included in the packages designated by the collector of New York, under said acts of Congress to be opened and examined. And it was further admitted and agreed that the duties on the amount of each of said four invoices had been paid, according to the prices therein stated. That the goods therein mentioned had been delivered to the claimant under regular permits, who afterwards shipped the 22 pieces taken from several of the original packages included in said four invoices, to the consignment of Beadell & Co. at Baltimore, for sale.

And the plaintiffs further to support the issue on their part, offered in evidence to the jury, the following notice from the claimant's counsel, to the district attorney, and which was served on him.

IN THE DISTRICT COURT OF THE UNITED STATES,
for the District of Maryland.

THE UNITED STATES,
vs.
22 PIECES OF CLOTHS.

Information.

The district attorney is requested to produce upon the trial of the above information, the several original invoices and entries of merchandise, with the permits for the same, imported by Thomas Wood, junior, into the port of New York, according to the following list, shewing the names of the vessels, and the times at about which the importations were respectively made; and also the books or records of the appraiser, or assistant appraiser, shewing what packages in each invoice were appraised.

1 The ship Virginia, - - - March, 1839,
2 North America, - - - - March, 1839,
3 South America, arrived May 6, 1839, duties paid - - - - - July, 25th, 1839,
4 Columbus, - - - - May, 1839,

J. V. L. McMAHON,
St. G. W. TEACKLE,
For Claimant.

TO NATHANIEL WILLIAMS, Esq.,
District Attorney, U. S.
February 24, 1840.

And the United States further to support the issues on their part, and for the purpose of shewing the fraudulent intent of the claimant, in respect to the importation of the goods contained in the said four invoices, of which the twenty-two pieces in question constituted a part, offered in evidence fifteen other invoices of cloths and cassimeres, imported by the claimant, into the port of New York in January, February, March and April, 1839, two of which were passed by Jeremiah Lounsberry, one of the assistant appraisers in the custom house of said port, and the remaining thirteen by Edgar Tripler, who it was admitted, was not a sworn officer of the customs, but a clerk to the appraisers in said custom house; and that said Tripler at the time he passed said goods, and for sometime before was, and had been in the practice of examining and passing cloths and cassimeres, with the knowledge and at the instance of the appraisers, which practice was however discontinued in July 1839.

And it was further admmitted, that each of said fifteen invoices contains a deduction from the amount thereof, of five per cent. for cash.

And the United States also for the same purpose offered in evidence nine other invoices and entries of goods imported by the claimant into the port of New York, in January, February, March and April, 1840, in five of which invoices, it is admitted there is a deduction of five per cent. for measurement; in two, a deduction of five per cent., without stating it to be for cash or measurement; and in one a deduction of five per cent. for cash.

And also offered in evidence a certain other invoice of cloths and cassimeres consigned to the claimant by Bower and Robinson, of Yorkshire, England, woollen cloth manufacturers, by the Roscius, and entered by the claimant on the 31st March, 1840, on each package of which said invoice there is a deduction of five per cent. for measure, which said twenty-nine invoices constitute all the importations by the said claimant.

And the United States in connection with the said ten invoices, offered to prove by William Cairnes, an inspector in the New York custom house, that he, together with Jeremiah Lounsberry, one of the assistant appraisers in said custom house, opened and examined the goods contained in said last mentioned ten invoices, and in every instance disallowed the said deduction of five per cent. And further, that he the said Cairmes, with the said Lounsberry, examined and appraised the goods included in the said ten invoices, and raised or put up the invoice cost of sixteen packages, included in the said ten invoices, to rates varying from 11 to 26 per cent., as appeared by said appraisement attached to the several invoices so put up and raised.

And also offered in evidence by said Cairnes, that in neither of the instances above stated, where the five per cent. deduction had been so disallowed, or in which the invoice cost had been raised as aforesaid, did the claimant appeal from the judgment of the witness, and said Lounsberry, but that he acquiesced therein, paid the duties accordingly, and received the goods. To be followed up with evidence by a competent witness that the only allowance made for cash, is from one and a quarter to one and a half per cent., and that no allowance is ever made for measurement on cassimeres, whether they be invoiced alone or with cloths.

To the admissibility of which twenty-five invoices and the evidence of said Cairnes, for the purpose for which the same were offered, the claimant by his counsel objected, but the court overruled said objection; being of opinion that the question in the cause was a question of fraudulent intention, the enquiry being whether the invoices of the goods in controversy were made up with intent to evade the act of Congress, and defraud the revenue; and that the acts of the claimant in passing other goods through the custom house are evidence.

Claimant's Second Exception.

To which admission and opinion, the counsel for the claimant prayed leave to except, and that the court would sign and seal

this bill of exceptions, which is accordingly done this 11th day of July, 1840.

U. S. HEATH. [L. S.]

THE UNITED STATES, *vs.* 22 PIECES OF CLOTHS.

And the said United States further to maintain the issues upon their part in addition to the matters stated in the first exception, and which are also made a part of this exception, offered in evidence by Samuel Riggs and John R. Ricards, two competent witnesses, that they had examined and appraised the goods in question in this cause, piece by piece, and set opposite to each number of each piece, the price, at which, in the opinion of the said witnesses, goods of the same quality and description could have been purchased in England at the times, when the invoices above set forth and inserted, purport to have been made out. And that the tabular statement then shown to said witnesses contains their said appraisement of said goods.

Thomas Wood, Junior.

No. of piece.										
No.	1096,	1	piece	W. D.	black	cloth	- -	16¼	11	6
	1097,	1	"	"	"	"	- -	16¼	11	6
	1050,	1	"	green	cloth		- -	10¾	8	9
	1049,	1	"	"	"		- -	21½	8	9
	1107,	1	"	"	"		- -	16	8	9
	1244,	1	"	"	"		- -	12½	10	6
	4000,	1	"	I. green	cloth		- -	15½	9	9
	4001,	1	"	"	"		- -	15	9	9
	5481,	1	"	"	"		- -	14½	9	9
	5482,	1	"	"	"		- -	14½	9	9
	5549,	1	"	Sum	"		- -	15¼	9	9
	5550,	1	"	"	"		- -	15¼	9	9
	1441,	1	"	claret	cloth		- -	14¾	9	6
	1442,	1	"	"	"		- -	14¾	9	6
	1403,	1	"	"	"		- -	16	9	6
	1404,	1	"	"	"		- -	16	9	6
4	1269,	1	"	I. green	"		- -	21	9	6
31	1274,	1	"	blue	"		- -	16½	9	9
31	1311,	1	"	"	"		- -	16½	9	9
	1312,	1	"	"	"		- -	16¾	9	9
	1091,	1	"	"	"		- -	15	9	9
	1092,	1	"	"	"		- -	15	9	9

22 pieces.

Case 31, containing 1 ps. blue, 1269, 1 ps. blue cloth 16¼ 9 9
Same quality as 5 ps. blue 1270 a 1091.

SAMUEL RIGGS,
J. R. RICARDS.

And further proved by the said Riggs, that his knowledge of the value and prices of cloths and cassimeres was derived from having been engaged in trading in those articles for the last thirty years, and since the year 1826, an importer of the same; that for the last three the said Riggs had a partner resident in England, one George Peabody, who is a good judge of cloths and cassimeres, and purchased them for cash, when and wherever he could purchase them on the best terms, and particularly in Yorkshire.

That for two years past, Henry T. Jenkins, another partner of said Riggs, and a good judge of cloths and cassimeres, has been constantly in England engaged in making purchases for the said Riggs and his partners, and that said Riggs thus became acquainted with the prices at which cloths and cassimeres could be purchased in England at manufacturers prices.

And the said United States further gave in evidence, by John R. Ricards above mentioned, that he had been in the business of buying and selling cloths and cassimeres for the last twenty years; that he is a partner in the firm of Ricards, Betts & Company, an importing house in Baltimore, and also in the firm of Hoffmans & Company, auctioners in said city, that for the last four years the principal part of the business of the witness has been to make purchases in England for the house of Ricards, Betts & Company, and solicit consignments for the house of Hoffmans & Company.

That for those purposes he has chiefly resided in England during the last mentioned period, that he went to England on his last visit in April, 1838, and left there in January, 1839; that he was in England at the time when the above mentioned invoices were alleged to have been made out, that he was assiduous in endeavoring to learn where he could purchase to the best advantage, that he selected one piece of cloth from those purchased by him, which he compared with the goods in question, for the purpose of refreshing his recollection, and that he believes the goods in question could not have been purchased in England, at the times stated in the invoices, at less prices than those stated in the appraisement of Riggs and Ricards above inserted.

And the United States further gave in evidence, by the said Riggs and Ricards, and by Joseph Todhunter and Abner Aldridge, competent witnesses, that they had been importers of cloths and cassimeres from England for many years past, Todhunter, Riggs, and Aldridge for upwards of twenty years past, and Ricards for seven or eight years, and that they had imported from Yorkshire particularly; that for the last five or six years they had not been able to import Yorkshire medium and low priced cloths and cassimeres to advantage, that the auctions were plentifully supplied with that description of goods, which were sold cheaper than the witnesses could afford to sell them; and that they had almost entirely withdrawn from this competition, and ceased to import medium and low priced Yorkshire cloths and cassimeres similar to the goods in ques-

tion. That in their dealings they had never known a deduction allowed for measurment on cassimeres, nor for a similar deduction upon invoices composed partly of cloths and partly of cassimeres, and that it is not usual to make a deduction for cash except to the amount of the legal interest, calculated upon the time, the bill of exchange given for the goods has to run. That it is customary to make purchases of clothes and cassimeres from the manufacturers for bills upon some approved house, at three or four months, and that when the cash is paid, a deduction of one and a quarter per cent. is made upon a bill at three months, and one and a half per cent. upon a four months' bill.

It is admitted, that the appraisement of Riggs and Ricards as aforesaid, exceeds the invoice price of the said cloths fifty-five per cent., and that the number of yards then marked on the pieces exceeds in the whole, the number stated in the invoices by the difference of eleven and a quarter yards.

Plaintiffs' Prayers.

Whereupon, the United States, by their counsel, prayed the court to give the following instructions to the jury:

District Court United States,
June term, 1840.

The United States
vs.
Twenty-two pieces of Cloth,
Thomas Wood, Junior, Claimant.

The United States, by their counsel, pray the court for its opinion and direction to the jury:

1st. Prayer.

1st. That the issues which the jury are sworn to try, involve no questions except upon the causes of forfeiture alleged and traversed; therefore, no question relating to the seizure of the goods is in issue, or in any respect material upon the pleadings in this case.

2d. Prayer.

2d. That if the jury find from the evidence in this cause, that the invoices which contain the goods now in controversy, were made up with an intent to evade or defraud the revenue of the United States, the United States are entitled to condemnation of the said goods, although the jury should also find from the evidence, that the said goods have been passed through the custom house at New York by the collector thereof, or by the appraisers, or other officers of the customs, and the duties calculated thereon been paid, or secured to be paid, and the said goods delivered by the said collector to the importer.

Third Prayer.

That there has been shown on the part of the United States probable cause for the prosecution under the 3d, 6th, 7th, 8th and 9th counts of the information; and therefore under the 71st section of the act of the 2d March, 1799, the burden of proof lies upon Thomas Wood, Jr., the claimant, and it is incumbent on him to prove to the jury that the charges in the said five counts of the information are untrue, that is, to prove that the goods in question were invoiced according to their actual cost at the place of exportation, and that the invoices and packages were not made up with intent to evade or defraud the revenue.

Fourth Prayer.

The burden of proof being upon the claimant to prove that the invoices were not made up with intent to defraud the revenue, that it is not sufficient for him to rely upon the invoices merely, as proving their truth and fairness.

Fifth Prayer.

The burden of proof being upon the claimant, it is incumbent on him to prove to the jury the actual cost of the goods in question, and that he does not relieve himself of this burden of proof by evidence of the mere value of said goods, except so far as such value may tend to shew actual cost.

Claimant's Prayers.

And the Claimant by his counsel also prayed the court to give the following instructions to the jury.

THE UNITED STATES
vs.
TWENTY-TWO PIECES OF CLOTH.
THOMAS WOOD, Jr. Claimant.
} Claimant's Prayer.

1. The claimant, by his counsel prays the court to instruct the jury, that under a true construction of the 71st section of the act of Congress of the 2d of March, 1799, it is incumbent on the United States to shew by evidence a seizure in pursuance of said act, or of other acts, if any, regulating seizures, and that in the absence of such evidence, the *onus probandi* cannot be thrown upon the claimant by proof of probable cause *proof of probable cause* of such seizure being made by said section, a pre-requisite which must be complied with.

Second Prayer.

2. That upon the evidence offered by the United States in this cause, the *onus probandi* does not lie upon the claimant under the

provisions of the 71st section of the act of 1799, because no probable cause has been shewn to the court for the prosecution in this case.

Third Prayer.

3. If the jury find from the evidence that the goods mentioned in the 3d count of the information were entered in the office of the collector of the collection district of New York, in the southern district of New York, and were unladen and delivered from the vessels in which they were imported under permits granted by said collector, who caused the said goods, wares and merchandise to be examined, and that after such examination the duties on the same were ascertained and estimated by said collector and paid by the said claimant, and the said goods, were by the authority of the collector delivered to the said claimant.

And if the jury further believe that the claimant caused the original packages in which said goods were imported, to be broken up, and shipped, said goods forming a part of said packages to his agents in Baltimore for sale, and that said goods were seized after their actual arrival in Baltimore, and not before, that the United States are not entitled to recover under the 3d count of the information.

Fourth Prayer.

4. That the United States are not entitled to recover under the said 3d count of the information, because the 66th section of the act of Congress passed on the 2d of March, 1799, entitled "An act to regulate the collection of duties on imports and tonnage," was not in force when the goods mentioned in said 3d count were imported.

Fifth Prayer.

5. That if the jury believe from the evidence that the collector of the port of New York caused at least one package out of every invoice, and one package at least out of every twenty packages of each invoice containing the goods mentioned in the 6th and 7th counts of the information, to be opened and examined, and that said packages were before such examination designated on the several invoices in which they were respectively included; and that said collector did not deem it necessary that a greater number of packages than those so designated should be opened and examined.

And if the jury further find that upon such opening and examination the said goods were in the judgment of the examining officers found to correspond with said invoices, and not to be falsely charged in said invoices, and that after the said examination the duties on said goods were ascertained and estimated by said collector and paid by the claimant, and said goods were delivered to the

claimant, who afterwards sent them to his agents in Baltimore for sale; and that the seizure on which said information is founded was made after said goods had arrived in Baltimore; that then the United States are not entitled to recover under the said 6th count, so far as the same charges the invoices to have been found to be made up with intent by a false valuation or extension to evade or defraud the revenue of the United States; nor under the said 7th count.

Sixth Prayer.

6. That there is no evidence in the cause from which the jury can find that the packages in which the goods mentioned in the 6th and 8th counts of the information were imported into New York, were found upon examination at the district of Maryland to be made up with intent to evade and defraud the revenue of the United States, and that therefore the United States are not entitled to recover under said 8th count, nor under said 7th count, so far as the same charges the packages to be made up with such fraudulent intent.

Seventh Prayer.

7. That the United States are not entitled to recover upon either of the said 6th, 7th and 8th counts of said information, because the fourth section of the act of Congress passed on the 28th of May, 1830, entitled "An act for the more effectual collection of the import duties," was not in force when the goods mentioned in said 6th, 7th and 8th counts were imported.

8th Prayer.

That there is no evidence in the cause from which the jury can find, that the package or either of them in which the goods mentioned in the 9th count of the information were imported, were opened and examined at the district of Maryland on the day mentioned in said count, or at any other time, and were found to be made up with intent to evade or defraud the revenue, and that therefore the United States are not entitled to recover upon said 9th count.

Courts', Instructions to the Jury.

But the court refused to give the instructions prayed for, both by the United States and the claimant, and rejected the same, and each and every of them; but gave the following instructions and directions to the jury.

THE UNITED STATES,
vs.
22 PIECES OF CLOTH.

1. That the issues formed and which the jury are sworn to try, involve no question except upon the causes of forfeiture alleged in the information and traversed, and therefore no question relating to the mere seizure of the goods is in issue or material under the pleadings in this cause.

2. If the jury shall find from the evidence in the cause, that the invoices of the goods in question were made up with intent, by a false valuation to evade or defraud the revenue, the plaintiffs are entitled to recover, although the jury should also find from the evidence that the said goods have been passed through the custom house at New York, by the collector thereof, and the duties calculated by him on said invoices shall have been paid or secured to be paid, and the said goods delivered by said collector to the importer.

3. That there has been shewn on the part of the United States, probable cause for the present prosecution under the third count, and the sixth, seventh, eighth and ninth counts in the information, and that the burthen of proof lies under the 71st section of the act of the 2d of March, 1799, upon Thomas Wood, Jr., the claimant, and that it is incumbent upon him to prove to the jury that the charges in the said five counts are untrue, that is to prove that the goods in question were invoiced according to their actual cost at the port of exportation, and that the invoices and packages were not made up with intent to evade or defraud the revenue.

4. That the burthen of proof being upon the said Thomas Wood, Jr., under the 71st section of the act of 1799, and the 1[illegible]th section of the act of the 14th of July, 1832, it is incumbent upon him to prove to the jury the actual cost of the 22 pieces of cloth in the invoices and entries stated to have been purchased by him, and that the value of the goods at the times or dates of the seizure, or of any other subsequent times are not material, except so far as they may assist or tend to enable the jury to ascertain the prices at the respective periods of purchase or shipment.

5. That the burden of proof being upon the claimant to prove that the invoices were not made up with intent to defraud the revenue, it is not sufficient for him to rely upon the invoices themselves merely as proving their own truth and fairness.

To which refusal to give the instructions and each and every of them as prayed for by the claimant, as well as to the instructions and each and every of them so given by the court to the jury, the claimant by his counsel prayed leave to except, and that the court would sign and seal this his bill of exceptions which is accordingly done this 11th day of July, 1840.

U. S. HEATH, [L. S.]

Agreement.

And the parties aforesaid by their attorneys aforesaid, filed in the district court here the following agreement, to wit:

The United States,	Writ of Error to the
vs.	Circuit Court, Nov.
22 Pieces of Cloth, Ths. Wood, Jr., Clmt.	Term, 1840.

It is agreed between the parties in this case by their counsel, that either party on the hearing of this case in the circuit court may read as a part of the record herein the 29 invoices and entries referred to in the first exception, or any one of them.

NATHANIAL WILLIAMS,
U. S. Dis't Attorney.
J. MEREDITH,
ST. G. W. TEACKLE,
Attorneys for Claimant.

Afterwards, to wit, on the thirteenth day of July, in the year of our Lord one thousand eight hundred and forty, the aforesaid claimant by his attorneys aforesaid, produced to the said district court here, the writ of the United States of America for the correcting of errors of and upon the premises, commanding the record and proceedings of the judgment aforesaid, so as aforesaid rendered, with all things concerning the same, to be transmitted to the circuit court of the United States for the fourth circuit, in and for the Maryland district, to be held at the city of Baltimore, on the first Monday in November next, which said writ of error is in the words and of the tenor following, to wit:

Writ of Error.

The United States of America, *ss.*

The President of the United States, to the Judge of the District Court of the United States, in and for the Maryland District, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said district court before you, between the United States of America plaintiffs, and twenty-two pieces of cloth, Thomas Wood, Jr., claimant, a manifest error hath happened to the great damage of the said Thomas Wood, Jr., as by his complaint appears.

We being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the circuit court of the United States for the fourth circuit in and

for the Maryland district, together with this writ, so that you have the same at the city of Baltimore on the first Monday in November next, in the said circuit court, to be then and there held; that the record and proceedings aforesaid being inspected, the said circuit court may cause further to be done therein to correct that error, what of right, and according to the laws and custom of the United States should be done.

Witness the Honorable Roger B. Taney, Chief Justice of our Supreme Court, the second Monday in January, in the year of our Lord one thousand eight hundred and forty.

Issued 13th July, 1840.

THOMAS SPICER,
Clerk Court.

In pursuance whereof, and according to the form and effect of the act of Congress in such case made and provided, a transcript of the record and proceedings of the judgment aforesaid, so as aforesaid rendered, with all things relating to the same, together with the said writ of error, are hereby transmitted to the said circuit court accordingly.

Bond for Costs.

Know all men by these presents that we, Henry Beadel and Nicholas W. Goldsborough, of the city of Baltimore, in the district of Maryland, are held and firmly bound unto the United States of America, in the just and full sum of five hundred dollars current money of the United States, to be paid to the said United States of America, their certain attorney or assigns, to which payment well and truly to be made and done, we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents, sealed with our seals, and dated this thirty-first day of October, in the year of our Lord one thousand eight hundred and forty.

Whereas, at a District Court of the United States in and for the Maryland district, begun and held at the city of Baltimore on the first Tuesday in June, in the year of our Lord one thousand eight hundred and forty, the said United States of America, by the judgment of the same court, obtained a judgment of condemnation against twenty-two pieces of cloth, whereof a certain Thomas Wood, junior, is claimant.

And whereas, the said Thomas Wood, junior, hath sued out the writ of the said United States of America for the correcting of errors, and a citation directed to Nathaniel Williams, attorney of the United States in and for the Maryland district, citing and admonishing him to be and appear at a circuit court of the United States for the fourth circuit in and for the Maryland district, to be held at the city of Baltimore on the first Monday in November next, to shew cause if any there be why the judgment rendered against the

said twenty-two pieces of cloth, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Now the condition of the above obligation is such that if the said Thomas Wood, junior, shall well and truly prosecute with effect his said writ of error, and pay to the said United States of America the costs and charges which have been adjudged to them in the said district court, and also all such costs and charges which may be awarded by the said circuit court of the United States, in case he, the said Thomas Wood, junior, shall fail to make his said plea good, then the above obligation to be void, otherwise to be and remain in full force and virtue.

HENRY BEADEL. [L. S.]
NICHOLAS W. GOLDSBOROUGH. [L. S.]

Signed, sealed and delivered in the presence of
THO. L. LEVERING.

The United States of America to Nathaniel Williams, Attorney of the United States, in and for the Maryland District, greeting:

You are hereby cited and admonished to appear at a circuit court of the United States for the fourth circuit in and for the Maryland district, to be held at the city of Baltimore, on the first Monday in November next, pursuant to a writ of error filed in the clerk's office of the district court of the United States, in and for the Maryland district, wherein the United States of America are plaintiffs, and twenty-two pieces of cloth, Thomas Wood, junior, claimant, is defendant, to shew cause, if any there be, why the judgment rendered against the said twenty-two pieces of cloth, in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness my hand and seal this thirtieth day of October, 1840.
U. S. HEATH. [L. S.]

I acknowledge notice of the above citation.
NATH. WILLIAMS,
Atty. U. S. Md. Dist.

In testimony that the aforegoing is a true copy taken from the record and proceedings of the district court aforesaid, I [L. S] hereunto subscribe my name and affix the seal of the said district court, this thirty-first day of October, in the year of our Lord one thousand eight hundred and forty.

THO. SPICER,
Clerk Dist. Court.

Judgment.

And now here, at this day, to wit, the ninth day of January, in the year of our Lord one thousand eight hundred and forty-one, came into the circuit court here, the said Thomas Wood, junior, claimant of the said twenty-two pieces of cloth, by his attorneys aforesaid, and the said United States of America by their attorney aforesaid.

Whereupon as well the record and proceedings aforesaid, and the judgment given in form aforesaid, as the matters, by the said Thomas Wood, junior, above, for errors assigned, being seen and fully understood by the court here, and mature deliberation thereupon had, for it appears to the court here, that there is no error either in the record and proceedings aforesaid, or in the giving judgment aforesaid; therefore it is considered, by the court here, that the judgment aforesaid, given in form aforesaid, be in all things affirmed, and stand in full force and effect, the said causes for error above assigned and alleged in anywise notwithstanding; and it is further considered, by the court here, that the said United States of America have their execution against the said Thomas Wood, junior, for the costs and charges adjudged unto them in the said district court, as also the sum of , adjudged unto the said United States of America, by the court, for their costs and charges which they have sustained by occasion of the delay of the execution of the judgment aforesaid, by the pretence of the prosecution of the said writ of the said United States of America for the correcting of errors, by the said Thomas Wood, junior, of and upon the premises as aforesaid prosecuted.

(The above judgment entered *pro forma.*)

Afterwards, to wit, on the ninth day of January, in the year of our Lord one thousand eight hundred and forty-one, the aforesaid claimant, by his attorneys aforesaid, produced to the said circuit court here the writ of the United States of America for the correcting of errors of and upon the premises, commanding the record and proceedings of the judgment aforesaid, so as aforesaid rendered, with all things concerning the same, to be transmitted to the Supreme Court of the United States, to be held at the city of Washington on the second Monday in January instant, which said writ of error is in the words and of the tenor following, to wit:

UNITED STATES OF AMERICA, *ss.*

The President of the United States to the Judges of the Circuit Court of the United States for the District of Maryland, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said circuit court, before you, or some of you, between Thomas Wood, junior, claimant of

twenty-two pieces of cloth, plaintiff in error, and the United States of America, defendants in error, a manifest error hath happened, to the great damage of the said Thomas Wood, junior, as by his complaint appears; we being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the second Monday of January instant, in the said Supreme Court, to be then and there held; that, the record and proceedings aforesaid, being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and custom of the United States, should be done.

Witness the honorable Roger B. Taney, Chief Justice of our Supreme Court, the second Monday in January, in the year of our Lord one thousand eight hundred and forty.

THO. SPICER, *Clerk C. C.*

Issued 9th January, 1841.

In pursuance whereof, and according to the form and effect of the act of Congress in such case made and provided, a transcript of the record and proceedings of the judgment aforesaid, so as aforesaid rendered, with all things relating to the same, together with the said writ of error, are hereby transmitted to the said Supreme Court, accordingly.

And the said United States of America, by their attorney aforesaid, filed in the circuit court here, the following waiver, to wit:

The United States *vs.* 22 Pieces of Cloth. Thomas Wood, Jr., Claimant.	Writ of Error to the Supreme Court, U. S.

The proceeds of the cloths informed against in this case, being lodged in bank, to await the final decision of the controversy, the subscriber waives the giving by the claimant of any appeal bond, and also any bond for costs.

NATHL. WILLIAMS,
U. S. Dist. Att'y.

Baltimore, January 9th, 1841.

The United States of America to Nathaniel Williams, Attorney of the United States in and for the Maryland District, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be held at the city of Wash-